

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-1688V

UNPUBLISHED

VICTOR GARCIA,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 16, 2021

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA); Complex
Regional Pain Syndrome (CRPS)

Jerome A. Konkel, Samster, Konkel & Safran, S.C., Milwaukee, WI, for petitioner.

Claudia Barnes Gangi, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On November 1, 2018, Victor Garcia filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that he developed shoulder injuries related to vaccine administration (“SIRVA”) and Complex Regional Pain Syndrome (“CRPS”) as a result of an influenza vaccine received on November 27, 2017. Petition at 3, 5. Petitioner further alleges that the vaccine was administered in the United States, that he experienced symptoms in excess of six months, and that he has not receiving any compensation in the form of an award or settlement, nor has he filed a civil action prior to filing this petition. Petition at 3, 5. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). This means the decision will be available to anyone with access to the internet. In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

On September 24, 2020, a ruling on entitlement was issued, finding Petitioner entitled to compensation for CRPS. On March 15, 2021, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$77,500.00. Proffer at 2. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$77,500.00 in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties’ joint filing of notice renouncing the right to seek review.

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Petitioner,)	
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)	ECF
SECRETARY OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Respondent.)	
)	

PROFFER ON AWARD OF COMPENSATION

On September 8, 2020, respondent filed a Rule 4(c) Report, in which he conceded that the flu vaccine administered to petitioner on November 27, 2017, caused-in-fact his complex regional pain syndrome; that the records show that the case was timely filed; that the vaccine was received in the United States; and that petitioner satisfies the statutory severity requirement by suffering the residual effects or complications of his injury for more than six months after vaccine administration. ECF No. 32. On September 24, 2020, the Court issued a Ruling on Entitlement, finding that petitioner is entitled to compensation. ECF No. 35.

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$77,500.00, which represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).¹ Petitioner agrees.

¹ Should petitioner die prior to the entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering.

II. Form of the Award

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment of \$77,500.00, in the form of a check payable to petitioner. Petitioner agrees.

Respectfully submitted,

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Dated: March 15, 2021